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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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11/03/2003

David W. Brown

U 0132 OS/CRA

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FOX ROTHSCHILD LLP
2000 MARKET STREET
PHILADELPHIA, PA 19103

EXAMINER

LANG, AMY T

ART UNIT

PAPER NUMBER

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MAIL DATE

DELIVERY MODE

03/12/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10700167	11/3/2003	BROWN ET AL	U 0132 OS/CRA

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EXAMINER

AMY T. LANG

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3731	20090309
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Commissioner for Patents

Newly submitted claims 13-23 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: claims 13-23 refer to methods while original claims 1-12 (now cancelled) refer to compositions. Therefore the claims refer to different inventions that have acquired a separate status in the art due to their recognized divergent subject matter and would require a different field of search. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 13-23 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Applicant asserts that there is no burden on the Examiner to search and examine claims 12-23. However, this is not found persuasive since there would be a serious burden on the examiner if restriction is not required since the inventions have acquired a separate status in the art due to their recognized divergent subject matter. Specifically, the inventions are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h). In the instant case the product can be used to lubricate a conveyor belt or plastic bottles or for use with plastic working such as forging.

Therefore, all currently pending claims are cancelled as being directed to a non-elected invention. Applicant is hereby required to supply proper claims in order to avoid abandonment. Applicant is given one month or thirty days, whichever is longer, from the mailing date of the initial notice filed 11/10/2008.

/Anh Tuan T. Nguyen/
Supervisory Patent Examiner, Art Unit 3731

/Amy T Lang/
Examiner, Art Unit 3731